

D/L. 16.
July 12, 2023.
MNS.

WPA No. 15674 of 2023

Sri Tanmay Saha
Vs.
The State of West Bengal and others

Mr. Chittapriya Ghosh,
Mr. Samir Kumar Adhikari

... for the petitioner.

Mr. Suman Sengupta,
Ms. Amrita Panja Moulick

...for the State.

Mr. Soumya Majumder,
Mr. Sougata Mitra,
Ms. Ankita Dey

...for the private respondent.

Learned counsel for the petitioner submits that the petitioner's father entered into an understanding with the private respondent, who is the brother of the petitioner's father, by virtue of which, the petitioner's father surrendered a joint licence for running a country liquor shop exclusively in favour of the private respondent.

However, there was a collateral understanding between the father of the petitioner and the private respondent that a 'Pachwai' shop, also run by a joint licence, would be transferred to the present petitioner's father. In the meantime,

the father of the petitioner died. Prior to his death, the petitioner's father had also written to the respondent authorities in that regard.

However, at the present moment, the private respondent is seeking to resile from such position, upon which the Collector of Excise, Bankura, by the impugned order, has turned down the petitioner's request for transferring the licence in the name of the petitioner with regard to the Pachwai shop.

Learned counsel for the respondent authorities submits that the question of issuance of licence is not a private right of the licence holder. As such, there cannot be any occasion for the parties to enter into an agreement relating to the same. In any event, the dispute regarding the agreement, sought to be relied on by the petitioner, cannot be decided by the respondent authorities.

Learned counsel for the private respondent also disputes the contentions of the petitioner and primarily submits that the same is a private dispute between the petitioner and the private respondent.

Upon hearing learned counsel for the parties, it has been rightly argued by the

respondent authorities that there is an equally efficacious alternative remedy by way of an appeal against the order impugned herein.

That apart, in so far as the private rights claimed by the petitioner is concerned, vis-à-vis the ownership of the businesses-in-question, between the petitioner and the private respondent, it has always been open to the petitioner to approach the competent authority to thrash out such dispute. However, it is beyond the scope of the writ court to decide such issues upon taking evidence.

Hence, WPA No. 15674 of 2023 is disposed of with liberty to the petitioner to approach the appropriate authority with an appeal against the order impugned herein.

If so approached, the appellate authority shall decide all the issues involved, including the question of limitation, and decide the said appeal, including all the questions indicated above, in accordance with law and upon giving adequate opportunity of hearing to all interested parties, as expeditiously as possible.

Nothing in this order, it is clarified, shall preclude either of the parties to resolve the civil dispute arising between them.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)